

Have you withheld too much tax on non-resident interest payments?

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Withholding tax on interest

For many years, the Income Tax Act (Canada) (“the act”) has included a requirement to withhold and remit tax to the Canada Revenue Agency when interest is paid or credited to non-residents. Under the act, the rate of withholding is 25%, but this rate can be lower if the interest is paid to a resident of a country that has an income tax treaty with Canada. For example, under the Canada-US Tax Treaty, the withholding tax rate has been 10% for many years.

Fifth Protocol to Canada-US Treaty

On December 15, 2008, the Fifth Protocol to the Canada-US Tax Treaty came into force. The Protocol includes several amendments, including the gradual phase-out of withholding tax on interest—paid or credited—between non-arm’s length Canadian and US parties (for example, between a Canadian company and its US parent). Under the Protocol, the withholding tax rate is reduced from 10% to 7% for payments made in 2008, from 7% to 4% for payments made in 2009, and from 4% to nil for payments made in 2010 and thereafter.

Changes to the act

In addition to changes made to the Canada-US Tax Treaty, the act itself was recently amended to eliminate the requirement to withhold tax on interest payments made to non-resident arm’s length parties resident in any country (with certain exceptions). This change is applicable to interest that is paid or credited from January 1, 2008 onwards.

Excessive tax withholdings

Based on the above changes to the act and the Canada-US Tax Treaty, did you withhold too much tax? If you are uncertain, you should consult with your tax adviser to determine whether any withholding taxes that you remitted since January 1, 2008 may have been excessive. If too much has been remitted, a refund request can be made by filing form NR7-R.

Your Grant Thornton [adviser](#) can assist you with obtaining any refund that might be owing to you.

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